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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE HERLEY INDUSTRIES INC.  
SECURITIES LITIGATION

No. 06-CV-2596 (JRS)

**PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE DEFENDANTS  
FROM CONTESTING THAT HERLEY INDUSTRIES INC. VIOLATED THE  
FEDERAL ACQUISITION REGULATIONS BASED ON ITS GUILTY PLEA**

Pursuant to Rule 103(c) of the Federal Rules of Evidence, Lead Plaintiff respectfully moves for an order *in limine* precluding defendants from contesting that: (i) in pleading guilty to two felony counts of obstructing a federal audit, 18 U.S.C. § 1516, in *United States of America v. Blatt, et al.*, No. 06 Cr. 268 (E.D. Pa.), Herley Industries Inc. admitted that it wrongfully withheld “cost or pricing data,” despite being asked for such information by Government auditors; and (ii) it therefore violated the requirements under the Federal Acquisition Regulations (FARs) that a contractor submit cost or pricing data to the Government in connection with its bid and provide information in response to an auditor’s requests. The grounds for the Motion are set forth in the accompanying Memorandum of Law, which is incorporated by reference.

Dated: April 7, 2010  
New York, New York

**KIRBY McINERNEY LLP**

By: /s/ Ira M. Press  
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